

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

30428-077

(Inmate Number)

DAVID E. KATES

(Name of Plaintiff)

U.S.P. Lewisburg P.O. Box  
(Address of Plaintiff)

1000 Lewisburg, PA 17837

vs.

B.A. Bledsoe (Warden)

Harley G. Lappin (B.O.P)

Director

(Names of Defendants)

11-391  
(Case Number)

"Jury Trial Demanded"

COMPLAINT  
FILED  
SCRANTON

MAR 01 2011

PER [Signature]  
DEPUTY CLERK

TO BE FILED UNDER: 42 U.S.C. § 1983 - STATE OFFICIALS

X 28 U.S.C. § 1331 - FEDERAL OFFICIALS

I. Previous Lawsuits

- A. If you have filed any other lawsuits in federal court while a prisoner please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

Kates V. Venfurth et al 108-CV-1235  
2008 John A. Gorman U.S. Magistrate Judge  
Kates V. Rebecca Tamez 4:07-CV-777-Y  
2007 Charles Bleil U.S. Magistrate Judge

II. Exhaustion of Administrative Remedies

- A. Is there a grievance procedure available at your institution?

X Yes      No

- B. Have you filed a grievance concerning the facts relating to this complaint?

X Yes      No

If your answer is no, explain why not

N/A

- C. Is the grievance process completed? X Yes      No

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use Item B for the names, positions and places of employment of any additional defendants.)

A. Defendant B.A. Bledsoe is employed  
as the Warden at U.S.P. Lewisburg

B. Additional defendants \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

1. This defendant (Warden B.A. Bledsoe) is involved  
because he is the primary caretaker / head of  
U.S.P. Lewisburg, is in charge of all of his  
subordinates and has authority to enforce
2. C.F.R.'s, Program Statements and all other  
policies govern<sup>ing</sup> this prison he is being  
sued in his individual & official capacity.  
The second defendant Harley G. Lappin
3. is the director of the B.O.P. he controls &  
governs the entire B.O.P. (via) the department  
of justice and signed the policy that govern  
this (S.M.U.) special management unit.

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

1. Plaintiff seeks compensatory damages  
in the amount \$100.00 dollars a day for  
everyday he has been subjected to these  
conditions from July 6 2010 until current
2. date 2011, also punitive damage  
to enforce penalties from this type of future  
conduct to myself and others and at the  
very least injunctive relief and nominal damages.
3. Also to reserve my rights to bring up  
additional evidence + defendants as they  
become known.

Signed this 23 day of February, 2011.

David E. Hates  
(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct.

2-23-2011  
(Date)

David E. Hates  
(Signature of Plaintiff)

## IV. Statement of the Claim [attachment pg.]

This 1331 Complaint arises from, inhumane living conditions at U.S.P. Lewisburg which has resulted "cruel living conditions a violation under the 8<sup>th</sup> amendment. Since my arrival here at U.S.P. Lewisburg on July 7, 2010 I have attempted verbally and thru the administrative remedy process inform all concern parties of these cruel conditions [SEE copies of complaint/request signed by Ass. Warden K. Rear as EXzibit A]. This old building which was built in 1932 has several violations including (1) hot cells which are not properly ventilated has no air circulation and can reach temperatures up to 120 degrees, we are in these cells 23 to 24 hrs a day. Furthermore the cells are roach infested and not infested, these roaches are breeding by the thousands and can-not be control, I even presented several dead roaches which I killed in the cell to the safety personnel during my initial (A+O) admission + orientation on August 2010, also I sent several dead roaches to the Central office, local judge and the A.C.L.U. of Pennsylvania as evidence of these conditions. SEE exhibit B as verification from response letter from A.C.L.U. The cells have rust around the toilets, chip lead paint and traces of asbestos all over the cells, again we are in these cells 23 to 24 hrs a day. This old building can-not be retrofitted to meet ~~modern~~ modern day

living standards. These cells since my arrival in July of 2010 until this current date of February 2011 are not fit for human habitation and in complete violation due to this improper ventilation system, lead paint, asbestos, vermin and rat + roach infestation.

The evidence along with the attach exhibits in the record will verify all accusations, furthermore affidavits from myself and other inmates will contribute towards revealing these cruel violations.

### \* Official Knowledge of Deprivation \*

Deliberate indifference involves two requirements first, an official must actually know about a substantial risk of serious harm and second, that official must fail to respond reasonably.

I have inform all executive staff about these violations (via) serving A.W. K. Peaz, A.W. Young, A.W. Hudson and Warden B.A. Bledsoe an informal complaint on or around January 12 or 13, 2011 thru my case-manager B. Hamilton. Furthermore enclosed as evidence exhibit-C-1, C-7 verifies I have notified medical staff of the harming effects these inhumane conditions have had on my health (e.g.) insect bites, loss of weight, heat rashes, insomnia + respiratory problems. The executive have not reasonably responded to my complaints during my 7 1/2 month stay, I have pending medical

appointments for ~~respiratory~~ test, blood test etc and my health has continue to deteriorate over the months. All evidence submitted as exhibits will further verify and prove this grave, cruel constitutional violation. A jury trial is demanded. Complaint for Money Damages and Injunction.

### Conclusion

Administrative Remedy Requirements have been reached and exhausted at this time. The B.O.P. and U.S.P. Lewisburg has a 4-step process 1- BP-8 informal attempt, 2 BP-9 Warden response 3 BP-10 regional Director response and 4 BP-11 central office response. Remedy #599686 has failed to be responded to at the final level / Central office per policy 1330.16 on time limits. Only one extension notice is required base on this policy and the final due date was November 20, 2010. Therefore policy states to assume it denied. [SEE copy of receipt verifying all (4) steps were exhausted per policy.]

~~A.W. Rear~~~~7-13-2010~~VO: D. Hates # 30428-OTI  
GB-17-S.M.U.Request

This request is in regards to several violations on <sup>G</sup>B-Block / S.M.U. that need to be addressed A.S.A.P. According to C.F.R. 541.40 and other B.O.P. policy & regulations, all cells must be adequately heated, lighted, well vent-  
ilated and keep in sanitary conditions at all times. The current ~~B~~ Block - Unit has several violations, these cells are (extremely hot) and are not fit for human habitation.

Violations

- 1.) No ventilation, extremely hot cells (SEE C.F.R. 541.40)
- 2.) Unsanitary, roaches, mice, vermin etc (SEE C.F.R. 541.40)
- 3.) Lead paint, mold, asbestos violations (SEE A.C.A. standards)
- 4.) These cells can-not be retro-fitted to meet ~~modern~~ modern day living standards.
- 5.) Cruel & unusual punishment (8<sup>th</sup> amendment)

\* A Written Disposition is Requested \*

Thank you for your input.

K Rear

507

*EXHIBIT-B*



ACLU Foundation of Pennsylvania  
PO Box 40008  
Philadelphia, PA 19106-0008  
(215) 592-1513 ext 1

August 23, 2010

David Kates  
Inmate# 30428-077  
United States Penitentiary  
P.O. Box 1000  
Lewisburg, PA 17837

Dear Mr. Kates:

The American Civil Liberties Union of Pennsylvania's legal department has reviewed your complaint. Unfortunately we are unable to offer you legal counsel at this time.

The ACLU of Pennsylvania is a privately funded non-profit organization that seeks to preserve and extend certain constitutional principles, most of which are found in the Bill of Rights. ACLU carries out its mission through political lobbying and public education, and also by undertaking a limited number of legal cases in which a person's or persons' civil liberties have been violated. Our office, however, has only one full-time attorney on staff, making it impossible to accommodate every individual seeking our assistance.

We recommend that you contact the following organizations:

Lewisburg Prison Project (LPP)/ Central Office of Pennsylvania Institutional Law Project (PILP)  
P.O. Box 128  
Lewisburg, PA 17837  
Phone: 570-523-1104  
Fax: 570-523-3944  
Email: [prisonproject@dejazzd.com](mailto:prisonproject@dejazzd.com)  
Website: <http://www.lewisburgprisonproject.org>

Pennsylvania Bar Association Lawyers Referral Service  
P.O. Box 186  
Harrisburg, PA 17108-0186  
Phone: 1-800-692-7375  
Website: [www.pabar.org/public/Membership/lrsblurb.asp](http://www.pabar.org/public/Membership/lrsblurb.asp)

Pennsylvania Department of Corrections  
Website: <http://www.cor.state.pa.us/portal/server.pt/community>



/department\_of\_corrections/4604

Although we cannot guarantee their assistance, they may be better able to help you with your complaint. We are sorry our office cannot do more for you.

Sincerely,

THE AMERICAN CIVIL LIBERTIES UNION OF PENNSYLVANIA

Exhibit C-1

8-8-2010  
P.A. Zook

D. Hates #30428-077  
Medical

Request

This request I ask call so in regards to  
a couple of things pertaining to my health  
(1) I need the type antibiotic ointment for  
the <sup>sores</sup> in & around my nose, that we discuss  
Also I need my arm checked out further for  
more damage, it is (going numb) on me  
day after day.

\* A Written Description is Requested \*

Med. Dept.

P.A. Zook

So the rapaxen is not helping? My prior exam notes  
discuss obtaining an x-ray of your neck if the problems  
persist. Let me know if you'd like to have them done.

K. Zook

8/25/10



**EXHIBIT C-2**BP-S148.055 **INMATE REQUEST TO STAFF** CDFRM  
SEP 98**U.S. DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF PRISONS**

TO; (Name and title of staff member): <i>Medical Dept.</i>	DATE: <i>9-16-2010</i>
FROM: <i>David E. Hates</i>	REGISTRATION #: <i>30428-077</i>
WORK ASSIGNMENT: <i>Unassigned</i>	UNIT: <i>S.M.U. / 304</i>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

*I am having serious problem with my (right arm going numb) daily, this problem was check out about 4 or 5 weeks ago by P.A. Zook and has not gotten better. I need a X-RAY or M.R.I. A.S.A.P. Also I need the blood test done, the annual 45 & over colon, prostate ~~test~~ cholesterol etc check.*

*Thanks!*

*\* A Written Disposition is Requested \**  
(Continue on back if necessary)

(Do not write below this line)

Disposition: *X-ray for cervical spine is scheduled. Will discuss after films are completed.*

*Labs will be ordered + discussed once complete.*

Signature of staff member: <i>[Signature]</i>	Date: <i>9-22-10</i>
--	-------------------------

Exhibit C-3

Medical Dept.  
P.A. Zook  
7-18-2010

D. Hates #30428-077  
G-304/SMU

### Request

P.A. Zook this sick call/request is in regards to the problems I have been having due to the (severe heat) in the cells. I have encountered heat rashes under arm pits, difficulty breathing, and weight loss since my arrival on 7-6-2010. I cannot eat, sleep, think or urinate or defecate on a normal bases due to everything being off balance in these hot cells. Please set-me up for a full evaluation.

Thanks!

*\* A Written Disposition is Requested \**

Try anti-fungal powder, hydrocortisone lotion and/or allergy tabs (CTM) from Commissary. Practice good hygiene/sanitation & keep rashy areas as clean/dry as possible. And you can think, how else did you write the note :- I know the cells are hot. If you have significant heat stress, you will be treated.

B- In regards to your neck/arm complaint from subsequent note - see attached exercises  
Naproxen prescribed - spare extra sheet is/ a friend who may need it.

7-21-2010

P.A. Zook

D. Hates #30428-0  
G-304/S.M.V.Request

This request is in regards to some serious medical issue that, I am currently dealing with due to the extreme heat in the cells (i.e.) heat rashes under arm pits & back, weight loss and difficulty breathing. I would like to be evaluated for these problems A.S.A.P.

Thanks!

\* A Written Disposition is Requested \*

NOTE: Please do - not throw my copout in <sup>the</sup> trash!

Chart reviewed. No documented reactive airway disease. Heat/Humidity Cause many people discomfort, however, are not life threatening. Some w/ rash. Clean w/ water/soap daily.

7-28-2010  
Medical Dept.  
P.A. Zook

D. Mateo # 30428-077

### Request

This request/sick call is in regards to a serious medical problem I am having, my right side of my neck, shoulder & arm is in severe pain. This problem has been bothering me for the last (5) days. I need an x-ray A.S.A.P. Also the medical records I requested from 7-6-2010 to 7-23-2010 was not given to me only records from (7-6-2010 to 7-13-2010.) There was no documentation of weight loss rashes or breathing problems documented in these records per P.A. Zook.

\* A Written Disposition is Requested \*  
Do Not throw request in  
trash!

See prior reply ... scales provided on triage basis secondary to time constraint

D. Kates #30428-077  
C-306

P. H. Zook  
10-25-2010

Request

This request is in regards to the extreme heat in the cells, I am suffering from heat exhaustion, cramps, night sweats and difficulty breathing. I need some type of relief from this condition.

Please Help!

A Written Disposition is Requested!

Keep windows open. Drink plenty of water. Use the salt on your lunch & dinner trays as it will help replace electrolytes lost to sweat.

Take Complaint of environmental conditions to your unit team, AW of operations and/or the safety office.

Thanks

P. H. Zook



11-29-2010  
P.A. Zook - Med-Dept.

D. Kates # 30428-077  
C-308

### Request

This medical request is in regards to several medical request I made regarding loss of weight, cramps in stomach, dizziness due to eating only apples + bread for 7-straight days I was placed on bag-lunch from 7-23-10 to 7-30-10. I do not eat meat or cheese and all-C-Unit staff refuse to give me a substitute for my no-meat diet. Everyone said it is over their head, even P.A. Zook stated it is over his head + on executive staff. I am just trying to get a written disposition, that I seek medical assistance and notified medical in writing 3-times, this being the fourth.

Thank You!

\* A Written Disposition is Requested \*  
Please Do-Not throw away!

Your situation did not require urgent, unscheduled evaluation. I did discuss this w/ food service + health service department staff. Concessions are not made on the contents of the sac lunch, though I did make them aware of your food preference.

U. Kates

G - Unit  
B-17

[Outside  
Temp.]

DAYS in cell

1.)	90+ Degrees	7-6-2010
2.)	95+ Degrees	7-7-2010
3.)	100+ Degrees	7-8-2010
4.)	100+ Degrees	7-9-2010
5.)	90+ Degrees	7-10-2010
6.)	95+ Degrees	7-11-2010
7.)	100+ Degrees	7-12-2010
8.)	100+ Degrees	7-13-2010
9.)	100+ Degrees	7-14-2010
10.)	95+ Degrees	7-15-2010
11.)	95+ ( )	7-16-2010
12.)	100+ ( )	7-17-2010
14.)	100+ ( )	7-18-2010
15.)	95+ ( )	7-19-2010
16.)	95+ ( )	7-20-2010
17.)	95+ ( )	7-21-2010
18.)	95+ ( )	7-22-2010
19.)	95+ ( )	7-23-2010
20.)	100+ ( )	7-24-2010

in cells on G-BL from  
July 6 until Sept 24 2010

D

Formal- Complaint / Petition  
for  
Executive Staff

TO: B.A. Bledsoe (warden), A.W. Young (ass. warden)  
H. Rear (ass. warden) D. Hudson (ass. warden)

Subject: Cruel and Unusual Punishment in U.S.P.  
Lewisburg (S.M.U.) Special Management Unit.

Violations: Inhumane living conditions,  
No proper ventilation system, excessive heat,  
exposure to insects, rodents and other vermin  
Lead paint and asbestos exposure. P.S. 5217.01-  
approved by B.O.P. Director Harley G. Lappin title  
[purpose and scope] states "the S.M.U. program is  
non punitive" All conditions of confinement  
shall be in accordance with the policy on  
Occupational Safety Environmental and Fire  
Protection". C.F.R. 541.21 governs living conditions  
in 23-1 Confinement, U.S.P. Lewisburg is in violation  
of the above mention violations. [SEE C.F.R. 541.21(C)(1)  
P.S. 5217.01 and the U.S. Dept. of Justice Institution  
Supplement for S.M.U. all in there entirety.]  
These violations has been in existence since  
the opening of the S.M.U. and U.S.P. Lewisburg  
in 1932.

## Statement of Complaint

2.)

This complaint will be brief, straight to the point and accompanied with signatures verifying all accusations. Since my arrival on July 7, 2007 I have <sup>been</sup> subjected to inhumane cruel living conditions (i.e.) extremely hot cells inadequate ventilation, exposure to roaches, rats and other vermin, rust & lead paint exposure inadequate shower stalls all while living on G-Unit from July 7, 2010 until September 24, 2010 Other violations that I am aware of or have witness and can be verified by other inmates within this petition, is unnecessary use of force, implementation of corporal punishment in a prison institution, inhumane, barbaric, torture, oppression and calculated scare tactics all use in a vile tyrant manner to enforce prison rules. Furthermore illegal use of restraints has been used on several occasions to force peaceful inmates to take a cello, all in violation of [C.F.R. 552.27 Principles Governing The Use of Force and application of restraints, [C.F.R. 552.24 Use of Four point restraints [552.27 Documentation of Use of Force and Application of Restraints [SEE any video footage and E.M.S. 583 & 586 forms] which are to be maintained for two<sup>1/2</sup> years per 552.27 & 5566.05 15 (d) pg.14 All inmates who print and sign there signatures herein this complaint/petition can attest to as true fact, that right today

3.) on 10 2010 U.S.P Lewisburg S.M.U. which is a non-punitive program per P.S. 5217.01 has subjected all signees of this petition to inhumane, cruel prison conditions as sentence B.O.P. inmates.

### Statement of Facts

- 1.) It is truth and fact that U.S.P Lewisburg S.M.U. has these violations right today.
- 2.) It is fact P.S. 5217.01 signed by B.O.P. Director Harley G. Lappen (govern) the S.M.U.
- 3.) It is fact P.S. 5566.05, P.S. 3420.09, C.F.R 541.21, C.F.R. 552.22, C.F.R. 552.24 and 552.27 has been violated
- 4.) It is fact that policy on the Occupational Safety Environmental and Fire Protection manual is being violated.
- 5.) It is fact that all relevant information use as reference materials P.S, C.F.R's etc is B.O.P./ D.O.J. materials.
- 6.) It is truth and fact the U.S.P Lewisburg is in violation of the Anti-Torture of Person Held in U.S. Custody Act implemented in November 2009 by President Obama

4.) \* Staff who have witnessed  
Violations in there official capacities \*

- |                               |                         |
|-------------------------------|-------------------------|
| 1. B.A. Bledsoe (warden)      | 16. C.O. D. Rogers      |
| 2. D. Young (A.W.)            | 17. C.O. R. Wickham     |
| 3. D. Hudson (A.W.)           | 18. C.O. D. Campbell    |
| 4. H. Rear (A.W.)             | 19. C.O. A. Kranzel     |
| 5. S. [REDACTED] (Capt.)      | 20. A. McCallum (med.)  |
| 6. S. Snider (capt.)          | 21. C.O. R. Sibella     |
| 7. D. Brewer (U.M.)           | 22. C.O. S. Booth       |
| 8. Hendrickson (CASE, M.O.V.) | 23. C.O. J. Lutz        |
| 9. D. Lentini (counselor)     | 24. C.O. F. Hlosner     |
| 10. Dr. Munk (psych.)         | 25. C.O. D. Vegh        |
| 11. P.A. K. Zook (med.)       | 26. C.O. E. Hlinefetter |
| 12. C.O. G. Kujago            | 27. C.O. T. Crowley     |
| 13. C.O. G. Wise              | 28. C.O. T. Brinks      |
| 14. C.O. H. Bower             | 29. C.O. C. Schlauch    |
| 15. C.O. H. Moffat            | 30. C.O. T. Twist       |

## Exhibit-E

5)	Name	Signature
1.	DAVID E. KATES #30428-077	David E. Kates
2.	DARNEIL NORTON #02883-029	Darnell Norton
3.	Michael Wallace #35842-007	Michael V. Wallace
4.	DANEON DALEY	Daneon Daley
5.	DEREK L. MADDOX #29677-112	Derek L. Maddox
6.	Nakia Pettus, #11015-002	Nakia Pettus
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		

*Exhibit - F*

EXTENSION OF TIME FOR RESPONSE - ADMINISTRATIVE REMEDY

DATE: OCTOBER 28, 2010

FROM: ADMINISTRATIVE REMEDY COORDINATOR  
CENTRAL OFFICE

TO : DAVID EARL KATES, 30428-077  
LEWISBURG USP      UNT: C-BLOCK      QTR: C03-306U

ADDITIONAL TIME IS NEEDED TO RESPOND TO THE CENTRAL OFFICE APPEAL IDENTIFIED BELOW. WE ARE EXTENDING THE TIME FOR RESPONSE AS PROVIDED FOR IN THE ADMINISTRATIVE REMEDY PROGRAM STATEMENT.

REMEDY ID : 599686-A1  
DATE RECEIVED : SEPTEMBER 21, 2010  
RESPONSE DUE : NOVEMBER 20, 2010  
SUBJECT 1 : TRANSFER - OTHER  
SUBJECT 2 : SPECIAL MANAGEMENT UNIT  
INCIDENT RPT NO:

*S.M.U. Living  
Conditions*



596310-F1	30428-077	KATES, D	B/SMU	B03-202L	FLP
	07-16-2010	CLD	06-29-2010	FLP	FLP
	33GM/	REQUEST LEGAL MATERIAL FROM PERSONAL PROPERTY			
596382-F1	30428-077	KATES, D	B/SMU	B03-202L	FLP
	06-29-2010	REJ	06-29-2010	FLP	FLP
	32DM/	REQUEST CORRECT MISTAKE			
596458-F1	30428-077	KATES, D	B/SMU	B03-202L	FLP
	06-30-2010	REJ	06-30-2010	FLP	FLP
	16ZM/25ZM	REQUEST TO ABLE TO RECEIVE NEWSPAPER			
599686-F1	30428-077	KATES, D	G-BLOCK	G03-304U	LEW
	07-29-2010	CLD	07-22-2010	LEW	LEW
	10ZS/	CLAIMS CELLS NOT UP TO STANDARDS/WANTS TRANSFER			

G0002

MORE PAGES TO FOLLOW . . .



EXHIBIT-F-1

EXHIBIT - G

BP-5146.055 INMATE REQUEST TO STAFF CLERK  
SEP 98  
U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) <i>Dr. Mink Psych. Dept</i>	DATE: <i>9-28-2010</i>
FROM: <i>D. Hates</i>	REGISTER NO.: <i>30428-077</i>
WORK ASSIGNMENT: <i>Unassigned</i>	UNIT: <i>S.M.U. C/305</i>

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

*Dr. Mink this copout is in regards to some information I am trying to obtain on phobia's. We have discuss this issue verbally, please send me your pamphlet or any other pertinent information in this matter.*

*Also since you refuse to answer my other copout pertaining to phobia's or place it in my psychology files, please just send it back unanswered so I can submit it elsewhere.*  
\* A Written Disposition is Requested \*

(Do not write below this line)

DISPOSITION:

*> See - help Materials enclosed.  
We can review on Tuesday.*

Signature Staff Member <i>[Signature]</i>	Date <i>9/29/10</i>
--	------------------------

Record Copy - File; Copy - Inmate

This form may be photocopied for use.

THIS FORM REPEATED BP-5146.055 dated Oct 98

**Administrative Remedy No. 599686-A1**  
**Part B - Response**

This is in response to your Central Office Administrative Remedy Appeal, in which you claim that the living situations at USP Lewisburg are inhumane. Specifically, you claim the Lewisburg SMU program has inadequate ventilation, inadequate maintenance, and pest control issues. You request immediate transfer to another facility.

Our review of this matter reveals the Warden and the Regional Director adequately responded to the issue you raise in this appeal. You were properly informed of the purpose and goals of the Special Management Unit (SMU) program. Additionally, pursuant to Program Statement 5217.01, Special Management Units, an inmate in this program has more restrictive conditions of confinement than the general population. You were also properly told and provided with a SMU Handbook upon your arrival at the Lewisburg SMU, advising you that you are required to participate in the SMU program for approximately 24 months. Therefore, as you have already been informed, due to your placement in the SMU Program you are required to complete Phases I & II at USP Lewisburg, prior to being submitted for transfer to another jurisdiction for completion of Phases III & IV.

Our review further reveals you were properly informed that all asbestos has been removed from inmate living areas. You were also properly informed that all housing units are treated monthly for pests, however, if you continue to have problem with pests, you may submit an "Inmate Request to Staff" to the Safety Department to receive additional pest treatments to your cell. You are encouraged to access sick call to be evaluated if you feel your health has been adversely affected.

Based on the above information, your appeal is denied.

*February 4, 2011*  
 Date

*[Signature]*  
 Harrell Watts, Administrator  
 National Inmate Appeals AVE

*\* Final Admin Appeal \**  
*from*  
*Central Office*

STATE OF PENNSYLVANIA  
UNION-COUNTY

Affidavit:

Statement of DAVID E. HATES

I, inmate David E. Hates can attest to as true fact, on numerous of occasions while living on G-Block at the U.S.P. Lewisburg prison that I have been subjected to horrible shower conditions at this old 72-year old prison. All of G-Unit showers on the 3<sup>rd</sup> floor only have one drain in the middle shower for the three showers subjecting me to all kinds of bodily fluids from other inmates, (i.e.) blood, urine, semen, saliva and other communicable diseases therefore enhancing myself to infections. Also the cells are rat & roach infested, have no ventilation system lead paint, exposure, rust and traces of asbestos. I swear up under the penalty of perjury and in God's name pursuant to 28 U.S.C. 1746 the above mention statement is true and correct.

Date: 2-23-2011 2011 Affiant David E. Hates

Inmate Name: David E. Hites  
Register Number: 30428-077  
United States Penitentiary  
P.O. Box 1000  
Lewisburg, PA 17837

*B*

RECEIVED  
SCRANTON  
MAR 01 2011  
PER [Signature]  
DEPUTY CLERK

FEB 20 2011

(Clerk)

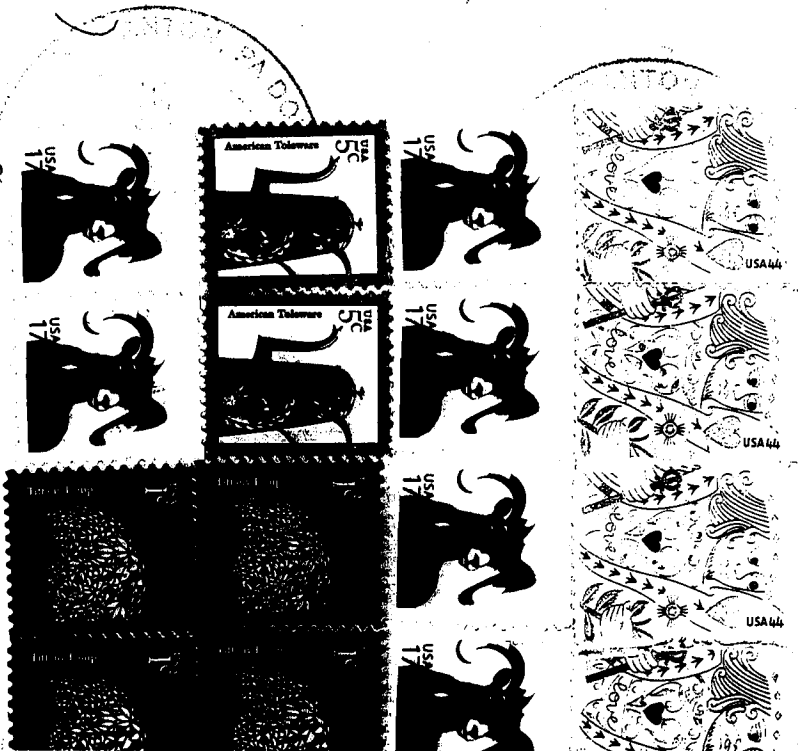
U.S. District Court

William J. Nealon Fed. Bldg.  
235 North Washington Ave.

P.O. Box 1148

Scranton, PA

18501-1148



\* Legal-Mail \*

\* Legal-Mail